APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,168	10/23/2003	Nathan Raymond Hughes	AUS920030630US1	1935

35525   7590   11/26/2008
IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS, TX 75380

EXAMINER
PAUL, DISLER

ART UNIT	PAPER NUMBER
2614	

NOTIFICATION DATE	DELIVERY MODE
11/26/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptonotifs@yeeiplaw.com

	Application No.	Applicant(s)
Office Action Summary	10/692,168	HUGHES ET AL.
	Examiner	Art Unit	
	DISLER PAUL	2614	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>11/10/08</u>.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-4,6,10,22 and 24</u> is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-4,6,10,22,24</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

U.S. Patent and Trademark Office

PTOL-326 (Rev. 08-06)   **Office Action Summary**   Part of Paper No./Mail Date 20081117

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed 11/10/08 have been fully considered but they are not

persuasive.

The applicant's had argued of the specific "having a plurality of stored audio

output parameters values associated with the stored valued for each

input parameter and wherein each stored audio output parameters value

of the plurality of stored audio parameters values is set by a

different user of a plurality of users" have been analyzed and further

rejected in view of (Schorman et al.)

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 1-3, 6, 10, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Sapashe et al. (US 2005/0059369) and Cranfill et al. (7,242,784) and Schorman et

al. (US 5,081,707).

        Re claim 1, Sapashe et al. disclose a method for intelligent

audio output control, the method comprising: periodically receiving

values for each input parameters of a set of parameters, wherein each

input parameters affects environmental noise (fig.2 wt (214)/external
environment noise); and receiving stored historical data, wherein the
stored historical data comprises stored values for the set of input
parameters and a stored audio output parameter value associated with
the stored values for each input of the set of input parameters
(fig.1-2; par[0012-0013,0008,0010]/output based on input and stored
historical data and sample periodically).

    But, Sapashe et al. fail to disclose of the specific wherein
having a plurality of stored audio output parameters values associated
with the stored valued for each input parameter and wherein each
stored audio output parameters value of the plurality of stored audio
parameters values is set by a different user of a plurality of users.
But, Schorman et al. of a system wherein the similar concept having a
plurality of stored audio output parameters values associated with the
stored valued for each input parameter and wherein each stored audio
output parameters value of the plurality of stored audio parameters
values is set by a different user of a plurality of users (fig.1-2;
col.1 line 55-65; col.3 line 10-55; col.4 line 15-32). Thus, taking
the combined teaching of Sapashe et al. and Schorman et al. as a
whole, it would have been obvious for one of the ordinary skill in the
art at the time of the invention to have modified Sapashe et al. with
the plurality of stored audio output parameters values associated with
the stored valued for each input parameter and wherein each stored
audio output parameters value of the plurality of stored audio

parameters values is set by a different user of a plurality of users

for customizing the sound output for each particular user.

    The combined teaching of Sapashe et al. and Schorman et al. as a

whole, further teach of the wherein the stored historical data

comprises a plurality of data values, wherein each data value

comprising a stored value for each input parameter for the set of

input parameters and each audio output parameter value of the

plurality of stored audio output parameter values associated with the

stored value for each input parameter of the set of input parameters

(fig.1-2; par[0012-0013,0008,0010]/output based on input and stored

historical data and sample periodically) and identifying a user of the

plurality of users to form an identified user (Schorman, fig. wt

(113); col.3 line 10-30).

    The combined teaching of Sapashe et al. and Schorman et al. as a

whole, responsive to a value for one or more of the periodically

received values for each input parameter changing, predicting a value

for an audio output parameter of an audio system for the identified

user based on the received values for each input parameter of the set

of input parameters and historical data of the stored historical data

corresponding to the identified user; wherein the historical data

corresponding to the identified user comprises a stored audio output

parameter value of the plurality of stored audio output parameter

values by the identified user (Schormanet al., fig.1) and adjusting

the audio output parameter for the audio system using the predicted

value for the audio output parameter for the identified user (fig.1-

2; par[0012-0013,0008,0010]/output based on input and stored

historical data and sample periodically).

    While, the combined teaching of Sapashe et al. and Schorman et

al. as a whole, disclose of the above with input data corresponding

with output data for the corresponding identified user, However, He

fail to disclose of the specific wherein the step of predicting a

value for an audio output parameter comprises one of a receiving data

points and performing statistical analysis on the plurality of data

points to predict the value for the audio output parameter; and

identifying a closest data point within the plurality of data points

and setting the predicted value for the audio output parameter to an

audio output parameter value of the closest data point. But, Cranfill

disclose of the system wherein the concept of dynamic control gain

signal wherein the step of predicting a value for an audio output

parameter comprises one of the receiving data points and performing

statistical analysis on the plurality of data points to predict the

value for the audio output parameter; and identifying a closest data

point within the plurality of data points and setting the predicted

value for the audio output parameter to an audio output parameter

value of the closest data point (fig.1 wt (memory), fig.4-5, col.3

line 29-40, col.5 line 35-65/statistical interpolation with linear for

input and output data point with closest data points) for the purpose

of dynamically improving the audio gain so low input level could be

heard. Thus, taking the combined teaching of Sapashe et al. and

Schorman et al. and Cranfill as a whole, it would have been obvious

for one of the ordinary skill in the art to have modify the combined

teaching of Sapashe et al. and Schorman et al. as a whole, by

incorporating the wherein the step of predicting a value for an audio

output parameter comprises one of the receiving data points and

performing statistical analysis on the plurality of data points to

predict the value for the audio output parameter; and identifying a

closest data point within the plurality of data points and setting the

predicted value for the audio output parameter to an audio output

parameter value of the closest data point for the purpose of

dynamically improving the audio gain so low input level could be

heard.

    Re claim 2, the method of claim 1, wherein the step of

periodically receiving values for each of a set of input parameters

includes periodically receiving values from a sensor ("_fig.2 (214)_"),

however, the combined teaching of teaching of Sapashe et al. and

Schorman et al. and Cranfill as a whole, fail to disclose of the

specific wherein having a plurality of sensors. But, official notice

is taken the concept of having a plurality of sensors is well known in

the art. Thus, it would have been obvious for one of the ordinary

skill in the art to have modify the combined teaching of teaching of

Sapashe et al. and Schorman et al. and Cranfill as a whole, with such

having a plurality of sensors for receiving a variation input location

of parameters.

Re claim 3, the method of claim 1 with the input parameters, the

combined teaching of Sapashe et al. and Schorman et al. and Cranfill

as a whole, fail to disclose of the specific wherein the set of input

parameters includes at least one of vehicle speed, whether the vehicle

window is opened or closed or convertible top is up or down. But,

Shorman et al. (new teaching) disclose of a sound system wherein such

having input parameters includes at least one of vehicle speed,

whether the vehicle window is opened or closed or convertible top is

up or down (fig.1 wt (114)) for purpose of providing an enhanced of

audio quality output dependent on the environmental condition of the

car. Thus, taking the combined teaching of Sapashe et al. and Schorman

et al. (old and new teaching) and Cranfill as a whole, it would have

been obvious for one of the ordinary skill in the art to have modify

taking the combined teaching of Sapashe et al. and Schorman et al.

(old teaching) and Cranfill as a whole, with the having input

parameters includes at least one of vehicle speed, whether the vehicle

window is opened or closed or convertible top is up or down for

purpose of providing an enhanced of audio quality output dependent on
the environmental condition of the car.

    Re claim 6, the method of claim 1 with the statistical analysis
being performed, wherein the statistical analysis includes at least
one of performing linear regression analysis ("*cranfill, fig.4-5,
col.4 line 62-65*").

Re claim 10, the method of claim 1, wherein the audio output parameter
is one of volume level (fig.1-2/to output volume level).

RE claims 24, the method of claim 1, wherein the plurality of users
are a plurality of drivers of a vehicle and wherein identifying a user
of the plurality of users comprises identifying the user by one of a
keychain remote, seat position preset or a voice identification (fig.1
wt (113).

4.   Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sapashe
et al. (US 2005/0059369) and Cranfill et al. (7,242,784) and Schorman et al. (US
5,081,707) and further in view of kitamura et al. (US 6,704,421 B1).

Re claim 4, the method of claim 1 with the data input and sensors
(fig.1-2). But, the combined teaching of Sapashe et al. and Schorman
et al. and Cranfill as a whole, fail to disclose of the limitation
wherein the set of input parameters includes audio type, wherein the
audio type comprise one of a song type, talking , and a commercial.
However, kitamura et al. disclose of a sound output system wherein
input parameters includes audio type, wherein the audio type comprise
one of a song type, talking, and a commercial (col.3 line 1-10; col.7
line 55-67) for purpose of providing an equalization which accommodate
variation of audio formats. Thus, taking the combined teaching of
Sapashe et al. and Schorman et al. Cranfill and Kitamura et al. as a
whole, it would have been obvious for one of the ordinary skill in the
art to have modify the combined teaching of Sapashe et al. and
Schorman et al. and Cranfill as a whole, wherein input parameters
includes audio type, wherein the audio type comprise one of a song
type, talking, and a commercial for purpose of providing an
equalization which accommodate variation of audio formats.

5.   Claims 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Sapashe et al. (US 2005/0059369) and Schorman et al. and Cranfill et al. (7,242,784)

and further in view of Banno (6,760,453 B1).

6.   Re claim 22, the combined teaching of Sapashe et al. and Schorman

et al. and Cranfill as a whole, disclose of the method of claim 1 and

wherein periodically receiving values for each input parameter of a

set of input parameter. But, the combined teaching of Sapashe et al.

and Schorman et al. and Cranfill as a whole, fail to disclose of the

specific wherein input comprises periodically receiving values for

each input every second. But, Banno disclose of a system of sampling

input signal wherein such having the specific wherein comprises

periodically receiving values for each input every second (fig.1,3,

col.8 line 20-29) for purpose of receiving instantaneous output level

signal dependent on the input level detecting. thus, taking the

combined teaching of Sapashe et al. and Schorman et al. and Cranfill

and Banno as a whole, it would have been obvious for one of the

ordinary skill in the art to have modify the combined teaching of

Sapashe et al. and Schorman et al. and Cranfill as a whole, with the

specific wherein comprises periodically receiving values for each

input every second for purpose of receiving instantaneous output level

signal dependent on the input level detecting.

<div align="center">***Contact***</div>

        Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Disler Paul whose telephone number is 571-270-1187. The examiner can

normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ping Lee/
Primary Examiner, Art Unit 2614

/D. P./
Examiner, Art Unit 2614